

# State of South Dakota

## EIGHTY-SIXTH SESSION LEGISLATIVE ASSEMBLY, 2011

349S0367

### SENATE BILL NO. 156

Introduced by: Senators Tieszen, Kraus, Novstrup (Al), Rhoden, and Vehle and  
Representatives Kopp, Bolin, Boomgarden, Haggard, Hickey, Hubbel, Jensen,  
Jones, Kirkeby, Munsterman, Nelson (Stace), Novstrup (David), Russell,  
Solum, Steele, Stricherz, Venner, Verchio, and Wick

1 FOR AN ACT ENTITLED, An Act to prohibit the employment of unauthorized aliens, to  
2 criminalize the knowing transportation, concealment, or solicitation of unauthorized aliens,  
3 and to provide penalties therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. No person, employer, or business entity may knowingly and intentionally employ,  
6 hire for employment, or continue to employ an unauthorized alien to perform work within the  
7 state of South Dakota.

8 Section 2. For the purposes of this Act, an unauthorized alien is any person:

9 (1) Who does not have the legal right or authorization under federal law to work in the  
10 United States; and

11 (2) Who does not have in his or her physical possession at the time of his or her hiring  
12 a document issued by a federal agency which authorizes him or her to work.

13 Section 3. It is an affirmative defense to a violation of section 1 of this Act that the person,  
14 employer, or business entity confirmed the legal work status of the applicant, hireling, or



1 employee through the E-verify program and has retained documentation substantiating that fact.

2 Section 4. No general contractor is in violation of section 1 of this Act solely because a  
3 subcontractor or independent contractor violates section 1 of this Act.

4 Section 5. The first violation of section 1 of this Act is a noncriminal violation and, upon  
5 conviction, is punishable by a civil fine of not more than one thousand dollars, regardless of the  
6 number of unauthorized aliens with respect to whom the violation occurred. Any person who  
7 has been previously convicted for a violation of section 1 of this Act and who thereafter violates  
8 section 1 of this Act, is guilty of a Class 2 misdemeanor. Any such subsequent violation  
9 constitutes a separate offense with respect to each unauthorized alien.

10 Section 6. No person may transport or move or attempt to transport or move an unauthorized  
11 alien in this state in a means of transportation if the person knows or recklessly disregards the  
12 fact that the alien has come to, has entered, or remains in the United States in violation of law  
13 unless the transport is to effectuate emergency assistance of to render necessary humanitarian  
14 aid. Any violation of this section is a Class 1 misdemeanor.

15 Section 7. No person may conceal, harbor, or shield or attempt to conceal, harbor, or shield  
16 an unauthorized alien from detection in any place in this state, including any building or any  
17 means of transportation, if the person knows or recklessly disregards the fact that the alien has  
18 come to, has entered, or remains in the United States in violation of law unless the temporary  
19 shelter is being provided to effectuate emergency assistance or to render necessary humanitarian  
20 aid. Any violation of this section is a Class 1 misdemeanor.

21 Section 8. No person may encourage or induce an unauthorized alien to come to or reside  
22 in this state if the person knows or recklessly disregards the fact that such coming to, entering,  
23 or residing in this state is in violation of law. Any violation of this section is a Class 1  
24 misdemeanor.